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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

EARL CONN,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Defendant.

Civil Action No. 08-CV-6055
ECF Case

**ANSWER TO VERIFIED COMPLAINT,
AFFIRMATIVE DEFENSES, AND
DEMAND FOR TRIAL BY JURY**

Defendant, JPMorgan Chase Bank, N.A. ("JPMC"), a national bank with its main office located in Columbus, Ohio by way of Answer to the Verified Complaint filed by plaintiff hereby says:

1. Defendant JPMC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Verified Complaint.
2. Defendant JPMC denies the allegations contained in Paragraph 2 of the Verified Complaint.
3. Defendant JPMC denies the allegations contained in Paragraph 3 of the Verified Complaint.
4. Defendant JPMC admits the allegations contained in Paragraph 4 of the Verified Complaint.

5. Defendant JPMC is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Verified Complaint.

6. Defendant JPMC denies the allegations contained in Paragraph 6 of the Verified Complaint.

7. Defendant JPMC denies the allegations contained in Paragraph 7 of the Verified Complaint.

8. Defendant JPMC denies the allegations contained in Paragraph 8 of the Verified Complaint.

9. Defendant JPMC denies the allegations contained in Paragraph 9 of the Verified Complaint.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE

The Verified Complaint fails to state a claim upon which relief can be granted.

SECOND SEPARATE DEFENSE

At the time and place alleged in the Verified Complaint, JPMC violated no legal duty owing to Plaintiff.

THIRD SEPARATE DEFENSE

At the time and place alleged in the Verified Complaint, JPMC was not guilty of any negligence which was a proximate cause of any injury or damages complained of by Plaintiff.

FOURTH SEPARATE DEFENSE

The damages alleged by Plaintiff were solely and proximately caused by the alleged negligence and/or intentional conduct of third parties over whom JPMC had no direction or control.

FIFTH SEPARATE DEFENSE

JPMC reserves the right to move to dismiss the Verified Complaint on the grounds that it fails to set forth a cognizable legal cause of action.

SIXTH SEPARATE DEFENSE

Some or all of the claims asserted in the Verified Complaint are barred by the applicable statute of limitations.

SEVENTH SEPARATE DEFENSE

To the extent that Plaintiff has failed to mitigate, minimize or avoid any damages he allegedly sustained, any recovery against JPMC must be reduced by that amount.

EIGHTH SEPARATE DEFENSE

The personal injuries alleged to have been sustained by plaintiff were caused in whole or in part as a result of the culpable conduct attributable to Plaintiff, including, but not limited to, Plaintiff's contributory negligence and/or assumption of the risk. Pursuant to Article 14-A of the CPLR, JPMC seeks a reduction of any recovery had by plaintiff in the proportion which the culpable conduct attributable to Plaintiff or any co-defendant bears to the culpable conduct which caused the damages.

NINTH SEPARATE DEFENSE

That any verdict in the within action for past, present and future medical care, dental care, custodial care or rehabilitation services, loss of earnings or other economic loss, should be reduced by the amount that any such expense has or will with reasonable certainty be replaced or indemnified in whole or in part from any collateral source, in accordance with the provisions and limitations of Section 4545(c) of the CPLR.

TENTH SEPARATE DEFENSE

That any sums or consideration paid or promised to Plaintiff by any person(s) or entity(ies) claimed to be liable for the injuries or damages alleged in the Amended Complaint shall reduce any judgment rendered in favor of Plaintiff as against JPMC to the extent of the greater of either the sums or consideration paid or promised to plaintiffs or the amount of the released tortfeasor's(s') equitable share(s) or the damages in accordance with General Obligation Law Section 15-108.

ELEVENTH SEPARATE DEFENSE

The liability of JPMC is limited under the terms of Article 16 of the CPLR.

TEWLFTH SEPARATE DEFENSE

The alleged injuries and/or damages sustained by Plaintiff, if any, were caused or contributed to, in whole or in part, by intervening and superseding causative factors and therefore the Plaintiff's claims should be barred.

THIRTEENTH SEPARATE DEFENSE

JPMC, at the time period alleged in the Complaint, did not control, own, maintain, operate or make special use of the instrumentality, object or portion of the premises which is the subject of this litigation, which Plaintiff's claim resulted in the alleged injuries and/or damages complained of in the Verified Complaint.

FOURTEENTH SEPARATE DEFENSE

If it is shown that Plaintiff was caused to sustain injuries and/or damages as a result of any substance, object or condition, claimed by Plaintiff to have caused and/or contributed to the incident upon which the Verified Complaint is based, such substance, object or condition was created, introduced or caused by persons or parties unknown to JPMC and over whom JPMC

exercised no authority or control and that JPMC did not have prior notice of the existence of such substance or condition.

FIFTHTEENTH SEPARATE DEFENSE

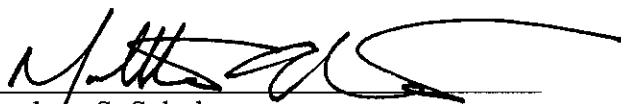
If Plaintiff was caused to sustain injuries and/or damages as a result of any object or condition claimed by Plaintiff to have caused and/or contributed to this accident, such object or condition, the existence of which is or may be denied by JPMC was in plain sight, open and obvious, and had plaintiff exercised due care, using sight and senses as a reasonable person, plaintiff would completely avoided the alleged injuries and/or damages.

SIXTEENTH SEPARATE DEFENSE

JPMC reserves the right to amend its Answer to the Verified Complaint to assert such additional defenses as may become apparent during the continuing course of discovery in this matter. In addition, JPMC reserves the right to amend its Answer to assert additional affirmative defenses to the extent that the law of the State of New York changes or develops requiring such amendment.

WHEREFORE, Defendant, JPMC, demands judgment dismissing Plaintiff's Verified Complaint against it, together with the costs and disbursements of this action.

Dated: July 1, 2008


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